

This is a claim for a right knee injury claimant allegedly suffered at work on September 30, 2000. Claimant testified that she and a co-worker were attempting to

transfer a patient from a living room chair to a wheel chair when the patient's legs gave way and she went down to the floor with the patient.

There is contradictory testimony about whether claimant experienced an immediate onset of pain. Nevertheless, she was able to complete her shift without difficulty. She did not report an accident or injury to her supervisor. Furthermore, her supervisor, John Muntz, testified that claimant was walking fine during her entire shift and showed no signs of injury or distress.

Although claimant said she did not notice an immediate onset of pain, she also said there was some pain at work which became worse later that night after work when she was walking to her mailbox. The hospital records show that when claimant first sought medical treatment on October 1, 2000, she denied any strain or trauma and could not identify any precipitating event for her pain. Likewise, the records show that when she next sought medical treatment on October 4, 2000 she again denied any strain or trauma and that it was not until after the October 4, 2000 medical visit that claimant reported that her knee injury happened on the job. At the preliminary hearing claimant disputed the history contained in those records and said she told the emergency room doctor that her injury happened at work. She also testified, however, that she initially did not think her injury had anything to do with work and also that she did not know what happened.

Given the inconsistent medical history and testimony, Judge Barnes ordered an independent medical examination to be performed by orthopedic surgeon, C. Reiff Brown, M.D. That was performed on April 11, 2001. Dr. Brown diagnosed a tear of the medial meniscus and the anterior cruciate ligament. Although Dr. Brown initially related these injuries to the lifting incident at work as described to him by claimant, his opinion changed during his deposition testimony. Dr. Brown described claimant's knee injury as a significantly disabling injury which would result in immediate pain and interference with function. He would expect claimant to thereafter walk with a limp. When presented with the testimony of no immediate onset of pain and no limp at work, Dr. Brown no longer attributed the injury to the incident at work. Dr. Brown's causation opinion changed depending on which of claimant's several versions of the accident and subsequent events was accepted as true. Nevertheless, Dr. Brown said he would have expected more severe symptoms, i.e., more pain, swelling and inability to use the leg.

Judge Barnes was persuaded by Dr. Brown's deposition testimony to find that claimant had failed to prove a work related injury. Given claimant's conflicting testimony concerning her history of knee problems, her belated recollection of a work related accident, the inconsistent history she provided to the health care providers, her admission that the onset of pain occurred away from work, together with the causation opinion of the independent medical examiner, the Board agrees with Judge Barnes that claimant has failed to prove that her knee condition resulted from an accidental injury arising out of and in the course of her employment with respondent.

WHEREFORE, the Appeals Board affirms the Order dated February 14, 2002, entered by Administrative Law Judge Nelsonna Potts Barnes.

IT IS SO ORDERED.

Dated this _____ day of June 2002

BOARD MEMBER

c: Joseph Seiwert, Attorney for Claimant
Roger E. McClellan, Attorney for Respondent
Nelsonna Potts Barnes, Administrative Law Judge
Philip S. Harness, Workers Compensation Director